

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

FEDERAL HOME LOAN BANK OF
BOSTON,

Plaintiff,

v.

ALLY FINANCIAL, INC. F/K/A GMAC
LLC, et al.,

Defendants.

Civil Action No. 11-10952-GAO

**DECLARATION OF FRANK NITKIEWICZ IN SUPPORT OF PLAINTIFF’S
OPPOSITION TO THE CREDIT RATING AGENCY DEFENDANTS’ MOTIONS TO
DISMISS THE AMENDED COMPLAINT FOR LACK OF PERSONAL JURISDICTION**

I, Frank Nitkiewicz, declare as follows:

1. I am the Chief Financial Officer and an Executive Vice President of the Federal Home Loan Bank of Boston (“the Bank”), Plaintiff in this case. This Declaration is submitted in support of the Bank’s Opposition to Motions to Dismiss the Amended Complaint for Lack of Personal Jurisdiction filed by certain Credit Rating Agencies (collectively, the “CRAs”) that are Defendants in this action: Fitch, Inc. (“Fitch”), Moody’s Corporation and Moody’s Investors Service, Inc. (collectively, “Moody’s”), and The McGraw-Hill Companies, Inc. and Standard & Poor’s Financial Services, LLC (collectively, “S&P”). I have been employed by the Bank since 1991, and this Declaration is based on my personal knowledge and experience, or the personal knowledge or experience of others who report to me.

2. I submit this declaration to describe my knowledge of the business interactions that the Bank has had with each of the Defendant CRAs in Massachusetts. The Bank has at some

stage interacted with each CRA in the course of its ongoing business operations. In general, there are four types of relationships the Bank has had with the CRAs:

- i. the Bank subscribes to the CRAs' ratings products;
- ii. the Bank is an entity rated by the CRAs;
- iii. the Bank licenses software from S&P; and
- iv. employees of the Bank have attended seminars conducted by the CRAs in Massachusetts.

I describe the Bank's interactions with each of the CRAs below.

Moody's

3. The Bank subscribes to the ratings products marketed by Moody's for the purpose of evaluating potential investments. These ratings are received, accessed, and used at the Bank's headquarters in Boston. The Bank's centralized Office of Finance manages some of the contract activity with Moody's relating to these ratings products.

4. The Bank has subscribed to Moody's' ratings products since 2004.

5. Since 2004, the Bank has paid Moody's the following amounts for subscription services:

2012	\$82,526.80
2011	\$47,785.58
2010	\$49,875.38
2009	\$71,746.23
2008	\$47,243.75
2007	\$29,377.12
2006	\$34,215.28

2005	\$30,920.83
2004	\$29,908.46
Total:	\$423,599.43

6. The Bank also has a relationship with Moody's as a rated entity. At times I have been the primary point of contact at the Bank for these interactions.

7. The Bank is an entity rated by Moody's, which means that Moody's annually evaluates and rates the Bank's creditworthiness. The Bank's relationship with Moody's in this regard goes back over 10 years.

8. Each year, Moody's reviews and updates its ratings of the Bank's creditworthiness. The process is lengthy and involves regular meetings with Bank personnel, as well as detailed review of numerous Bank records and Bank business information. Periodically, Moody's employees travel to visit the Bank's headquarters in Boston to conduct their investigations and analysis. For example, Moody's employees visited the Bank's Boston headquarters at a minimum in 2005, 2006, and 2011.

9. Moody's bills the Bank for these ratings each year. Between 2004 and the present, the Bank has paid Moody's the following amounts for these ratings:

2012	\$57,335.74
2011	\$56,597.83
2010	\$54,764.14
2009	\$48,647.58
2008	\$48,605.55
2007	\$41,546.36
2006	\$36,615.76

2005	\$29,485.22
2004	\$26,542.18
Total:	\$400,140.36

10. On information and belief, Moody's rates numerous other Massachusetts entities in a manner similar to its yearly ratings of the Bank.

11. Moody's periodically conducts seminars and training sessions in Massachusetts. Bank employees have attended several such presentations in recent years.

S&P

12. The Bank subscribes to the ratings products marketed by S&P for the purpose of evaluating potential investments. These ratings are received, accessed, and used at the Bank's headquarters in Boston. The Bank's centralized Office of Finance manages some of the contract activity with S&P relating to these products.

13. The Bank has subscribed to S&P's ratings products since 2004.

14. Since 2004, the Bank has paid S&P the following amounts for these subscription services:

2012	\$52,040.81
2011	\$50,000.00
2010	\$47,500.00
2009	\$45,620.69
2008	\$63,000.00
2007	\$74,487.50
2006	\$27,000.00
2005	\$27,000.00

2004	\$27,000.00
Total	\$413,649.00

15. The Bank is an entity rated by S&P, which means that S&P annually evaluates and rates the Bank's creditworthiness. At times I have been the primary point of contact at the Bank for these interactions. The Bank's relationship with S&P in this regard goes back over 10 years.

16. Each year, S&P releases new ratings of the Bank's creditworthiness. The process is lengthy and involves regular meetings with Bank personnel, as well as detailed review of numerous Bank records and business information. Periodically, S&P employees travel to visit the Bank's headquarters in Boston to conduct their investigations and analysis. For example, S&P employees visited the Bank's Boston headquarters in at least 2005 and 2011.

17. S&P bills the Bank for these ratings each year. Between 2004 and the present, the Bank has paid S&P the following amounts for these ratings.

2012	\$56,548.98
2011	\$129,901.63
2010	\$38,733.33
2009	\$35,408.33
2008	\$56,112.50
2007	\$51,356.67
2006	\$45,836.26
2005	\$42,718.71
2004	\$33,631.12
Total:	\$490,247.53

18. On information and belief, S&P rates numerous other Massachusetts entities in a manner similar to its yearly ratings of the Bank.

19. Since 2005, the Bank has licensed software from S&P called “LEVELS.” The licensing agreement with S&P specifically authorizes the Bank to use this software at its Boston, Massachusetts headquarter office.

20. S&P bills the Bank directly at its headquarters in Boston for the LEVELS software. The Bank’s sales contact at S&P is Michael Sarnoff. Between 2005 and the present, the Bank has paid S&P the following amounts for this software:

2012	\$77,500.00
2011	\$185,000.00
2010	\$148,387.00
2009	\$150,000.00
2008	\$60,000.00
2007	\$105,000.00
2006	\$105,000.00
2005	\$105,000.00
Total:	\$935,887.00

21. On information and belief, I understand that S&P also licenses its LEVELS software to numerous other Massachusetts businesses.

22. S&P periodically conducts seminars and training sessions in Massachusetts. Bank employees have attended several such presentations over the past few years.

Fitch

23. The Bank subscribes to the ratings products marketed by Fitch for the purpose of evaluating potential investments. These ratings are received, accessed, and used at the Bank's headquarters in Boston. The Bank's centralized Office of Finance manages some of the contract activity with Moody's relating to these products.

24. The Bank has subscribed to Fitch's ratings products since 2004.

25. Since 2004, the Bank has paid Fitch the following amounts for subscription services:

2012	\$23,666.67
2011	\$22,055.17
2010	\$20,316.67
2009	\$28,750.00
2008	\$20,000.00
2007	\$18,740.74
2006	\$16,206.90
2005	\$17,407.41
2004	\$16,538.46

Total: \$183,682.02

26. The Bank also has a relationship with Fitch as a rated entity. At times I have been the primary point of contact at the Bank for these interactions.

27. Fitch offered to rate the Bank in 2010, and visited the Bank's headquarters in Boston to conduct due diligence and to solicit the Bank's business at that time. I met for at least three hours with Fitch employees on that occasion. The Bank ultimately declined to purchase

Fitch's rating, but provided detailed information to Fitch throughout the rating process over a series of meetings and other exchanges. In 2011, Fitch employees again visited the Bank to perform due diligence to update the rating and to solicit the Bank's business. I met with Fitch employees for at least an hour and a half on that occasion. The Bank again declined to pay Fitch for its rating, and thereafter Fitch stopped rating the Bank.

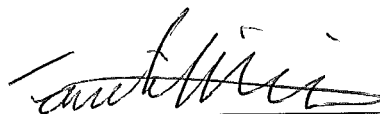
28. My primary contact at Fitch was Kenneth Ritz, who visited the Bank with at least one other Fitch employee on each of the occasions described above.

29. On information and belief, Fitch rates numerous other Massachusetts entities, and solicits the business of numerous other Massachusetts entities in the same or similar manner as it has solicited the Bank's business.

30. Fitch periodically conducts seminars and training sessions in Massachusetts. For example, a Bank employee attended a seminar in Boston in December 2007.

I declare under penalty of perjury under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

DATED this 10th day of January, 2013 in Boston, Massachusetts.



Frank Nitkiewicz

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent via U.S. first class mail to those indicated as non-registered participants on January 16, 2013.

Lynn Lincoln Sarko
/s/ Lynn Lincoln Sarko